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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,924	05/19/2006	Diana Ochms	102792-587-11376P4US	9098
27389 7590 01/22/2009 NORRIS, MCLAUGHLIN & MARCUS 875 THIRD AVE 18TH FLOOR NEW YORK, NY 10022				
EXAMINER HUYNH, LOUIS K				
ART UNIT		PAPER NUMBER		
3721				
MAIL DATE		DELIVERY MODE		
01/22/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/595,924

Applicant(s)

OEHMS ET AL.

Examiner

Louis K. Huynh

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/31/2008 has been entered.
2. Claims 3-24 are currently pending for prosecution on the merits.

Response to Arguments

3. Applicant's arguments filed 12/31/2008 have been fully considered but they are not persuasive. Applicant contends that WO'454 (WO 02/092454) does not teach keeping containers in an anhydrous environment prior to sealing, that nothing in WO'454 would suggest or even hint that anhydrous conditions are inherent in that process, that if the anhydrous conditions were considered critical or even preferred in WO'454, then it would at least be mentioned, that the term "anhydrous" is well known in the art to mean having substantially no water and cited paragraph 0021 describing the anhydrous retention conditions to show that anhydrous conditions means more than just not being wetted by water and that it means that the surrounding atmospheric environment contains substantially no water. This is not found persuasive because: (1) the phrase "anhydrous environment" is not found in the claims, (2) the claims are given the broadest reasonable interpretation and the limitations from the specification are not imported into the claims; therefore, the "anhydrous conditions" described in paragraph 0021 will not be imported into the claims unless they are positively recited in the claims, and (3)

keeping the container in an anhydrous condition is interpreted as to keep the container from being wetted with water, the method of WO'454 does not disclose any step of watering the container or wetting the container with water; in fact, the container formed by the process of WO'454 is a water-soluble container that must not be wetted with water and must be kept in a dried condition prior to filling with the detergent composition and sealing to form a commercial product. The rejection of the claims is still deemed proper and is maintained as follows:

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 3-24 are rejected under 35 U.S.C. 102(b) as being anticipated by WO'454 (WO 02/092454).

- With respect to claims 3-7, WO'454 discloses a method for manufacturing a rigid water-soluble container containing a detergent composition that meet all of applicant's claimed subject matter; in particular, the method of WO'454 comprises the step of: forming a container by sequentially injection molding (page 15, line 29 – page 16, line 2) in part from a first polyvinyl alcohol (PVOH) polymer (page 16, lines 4-6) and in part from a second polymaleic acid polymer (page 15, lines 24-27), keeping the container in a substantially anhydrous condition by not wetting the container with water, filling the container with a detergent composition (page 16, lines 31-32), sealing the filled container (page

- 17, lines 1-4), and allowing the sealed container to come into contact with a plasticizer by exposing the sealed container to ambient air prior to packaging such that the container absorbs moisture (water) from the air as a natural phenomenon.
- With respect to claims 8, 9 & 11, the container made by the method of WO'454 comprises a water-soluble receptacle part and a water-soluble closure part; wherein the closure part can be in the form of a film (page 17, lines 1-4) or alternatively in the form of a rigid closure (page 17, line 16-19), and wherein the closure part is formed from a plastic film comprising polyvinyl alcohol (PVOH) (page 14, lines 11-15).
 - With respect to claim 10, the receptacle part of the container made by the method of WO'454 has side walls that terminate at their upper end in an outward flange (page 13, lines 24-28).
 - With respect to claim 12, in the method of WO'454, the detergent composition to be filled into the container may comprise a powder, gel, paste or low water liquid formulation (page 20, lines 13-14).
 - With respect to claim 13, the container made by the method of WO'454 may contain a composition in the form of gel tablet that may be formulated to dissolve slowly depending on the intended use (pg. 18, line 24-31).
 - With respect to claim 14, the receptacle part of the container made by the method of WO'454 may have upstanding wall that separates the receptacle part into separate compartments (page 17, line 23 - page 18, line 5).

- With respect to claim 15, the closure part of the container made by the method of WO'454 is of transparent or translucent material (page 18, lines 16-18).
- With respect to claim 16 & 17, the method of WO'454 forms an array of connected containers, wherein individual container can be separated from the array via a line of weakness (page 16, lines 22-24).
- With respect to claim 18, the forming step in method of WO'454 further comprises the steps of: melting the polymer, injecting the molten polymer into a mold, removing the rigid container from the mold; and the step of filling comprises adding fabric care, surface care or dishwashing composition (page 39, line 23-28).
- With respect to claims 19-23, the method of WO'454 further comprises injecting a first polymer and an additional polymer into the mold simultaneously or sequentially (page 39, lines 30-32); wherein the specific technique and/or steps recited in claims 20-23 are disclosed on page 40, lines 1-25.
- With respect to claim 24, WO'454 discloses a method for manufacturing a rigid water-soluble container containing a detergent composition that meet all of applicant's claimed subject matter; in particular, the method of WO'454 comprises the step of: forming an array of containers in an injection molding process; removing the array from the mold; placing the array in a storage area; filling the array of containers with the detergent composition; placing a closure on the array; sealing the containers; and separating the array into individual containers (page 16, line 30 - page 17, line 5). Note that the step of placing the

array in a storage area is an inherent step because it is known in the art that the array of containers must be taken out of the mold at the injection molding station and must be transfer from the injection molding station to the next station for further processing; the container must be placed in a storage area while waiting to be transferred and/or during transfer such as a transfer cart; hence the step of placing the array in a storage area.

Conclusion

6. This is a RCE of applicant's earlier Application No. 10/595,924. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

7. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis K. Huynh whose telephone number is 571-272-4462. The examiner can normally be reached on M-F from 8:00AM to 3:00PM.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

January 21, 2009

/Louis K. Huynh/
Primary Examiner
Art Unit 3721